

New DOJ Directive Details Fraud Division's Corporate Enforcement Priorities

October 5, 2026

On October 1, 2026, Colin M. McDonald, Assistant Attorney General for the Department of Justice's National Fraud Enforcement Division (the "Fraud Division"), issued Directive 26-12, "Corporate Enforcement in the Fight Against Fraud" (the "Directive").¹ The Directive sets forth a detailed roadmap of how the Fraud Division, created in April 2026, will approach corporate investigations and resolutions. It builds upon the Division's August 2026 priorities memorandum and the related final rule assigning certain fraud priorities to the Fraud Division, which we [previously addressed](#).²

The Directive does not create new Department policy. Rather, it directs Fraud Division prosecutors to continue following the Department's existing Principles of Federal Prosecution of Business Organizations and Department-wide Corporate Enforcement and Voluntary Self-Disclosure Policy (the "CEP") while specifying how Fraud Division prosecutors are to apply those two frameworks in practice, including identifying weighted charging factors, priority fraud categories and new internal reporting and oversight mechanisms.

New Charging and Resolution Factors. The Directive specifies that Fraud Division prosecutors should place "great weight" on 10 factors when determining whether to bring charges or how to structure a corporate resolution.

Several factors track traditional Justice Manual considerations. These include management's knowledge of or involvement in the fraud; efforts to conceal the scheme from government agencies or auditors (or otherwise impede or obstruct a government function or oversight); and the duration, scope and financial harm of the conduct. The

¹ Memorandum from Colin M. McDonald, Assistant Attorney General, National Fraud Enforcement Division, *Directive 26-12: Corporate Enforcement in the Fight Against Fraud* (Oct. 1, 2026), <https://www.justice.gov/index%2Ephp/opa/pr/assistant-attorney-general-colin-m-mcdonald-issues-memorandum-national-fraud-enforcement-0>.

² Debevoise & Plimpton LLP, "DOJ's New Fraud Division Sets Enforcement Priorities and Reshapes White Collar Enforcement Landscape," *FCPA Update*, Vol. 18, No. 1 (Aug. 2026), <https://www.debevoise.com/-/media/files/insights/publications/2026/08/fcpa-update-august-2026.pdf>.

Directive places particular emphasis on schemes lasting three or more years, affecting three or more federal districts, causing substantial financial hardship to a taxpayer-funded program or government function, affecting multiple taxpayer-funded programs or government functions or causing \$25 million or more in losses or harming 25 or more victims.

The remaining factors reflect particular priorities of the current administration, including conduct that threatens the safety or security of American citizens (including military readiness), conduct involving the exfiltration of U.S. dollars to support foreign adversaries and conduct involving immigration offenses.

Notably, each of the 10 factors functions as an aggravating consideration that weighs in favor of charging or a more severe resolution. The Directive does not identify any mitigating factors, leaving those to the Justice Manual and the CEP, which the Directive instructs prosecutors to continue to follow. The Directive states that the list is “non-exhaustive” and that prosecutors may weigh any other relevant factor consistent with the Justice Manual.

Priority Areas for Investigations. The Directive instructs prosecutors to prioritize investigations related to four categories of fraud: (i) healthcare fraud, including distribution of controlled substances and Food, Drug, and Cosmetic Act violations; (ii) fraud involving public trust or the financial integrity of government procurement, contracts and other government functions; (iii) fraud involving significant evasion of internal or external revenue; and (iv) fraud involving tariff evasion, importation of goods or services or forced labor.

These priorities are consistent with the priority categories the Fraud Division announced in its August 2026 memorandum.³

Role of the Fraud Division’s Corporate Enforcement Section. The Fraud Division first announced the Corporate Enforcement Section—a specialized unit within the Fraud Division—earlier this year.⁴ The Directive now provides greater visibility into how this section will function in practice. It specifies that the Corporate Enforcement Section will support the Fraud Division’s other sections in corporate cases, providing guidance and litigation support where needed.

³ See note 2, above.

⁴ The Corporate Enforcement Section referenced here and throughout the Directive is distinct from the Criminal Division’s former Fraud Section, which was separately renamed the White Collar and Corporate Enforcement Section earlier this year.

Within seven days of the Directive, Fraud Division prosecutors must report all ongoing corporate fraud investigations to the Chief of the Corporate Enforcement Section. The Section must also “be promptly notified of any new corporate investigations, as well as major developments in ongoing corporate cases.” These requirements apply to Fraud Division matters and do not automatically extend to cases led by a U.S. Attorney’s Office unless such case is jointly supervised by the Fraud Division.

The Corporate Enforcement Section will also “participate in matters as necessary and appropriate to ensure that the Division is dedicating adequate resources to corporate matters and complying with Department policies regarding corporate enforcement.”

In addition, the Section will take the lead in evaluating a company’s compliance with a corporate resolution, including by assessing compliance program enhancements and monitoring resolution-related disclosure obligations. According to the Directive, this division of labor is intended to free up prosecutors to pursue new cases and to ensure that compliance monitoring is handled consistently across the Division.

Voluntary Disclosure and Whistleblower Policy. The Directive reiterates the Fraud Division’s commitment to the CEP and to rewarding companies that voluntarily disclose misconduct, cooperate with DOJ and fully remediate.

It also directs Fraud Division leadership to design new policies and programs to incentivize whistleblowers to come forward with credible fraud information, as well as to “encourage and protect the disclosure of information by whistleblowers, including by those who participated in the criminal conduct.” The Directive ties these incentives to the Division’s expanding data analytics capabilities, including the National Fraud Detection Center, which the Division identified in its August 2026 memorandum. A new Fraud Division-specific whistleblower policy may therefore be in development.

Practical Implications for Companies. This Directive is the clearest statement to date of how the Fraud Division intends to exercise its corporate enforcement authority. It sets forth several practical implications for companies—particularly those in the healthcare sector and government contractors—and it confirms that tax and tariff evasion will remain enforcement priorities.

Companies investigating potential misconduct that could implicate government funds, cross-border dealings or multidistrict conduct should weigh the Directive’s factors early, including the availability and potential value of voluntary self-disclosure. Because all ongoing and new Fraud Division corporate matters must now be reported to the Corporate Enforcement Section, companies should expect more consistent, centrally coordinated DOJ engagement going forward, including with respect to resolution

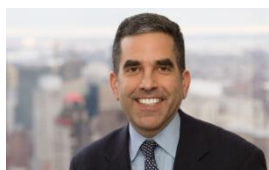
compliance monitoring, and should ensure their compliance programs and reporting infrastructure can withstand that sustained scrutiny.

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Please do not hesitate to contact us with any questions.



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